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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/714,434 | 11/12/2003 | Woo Seong Yoon | 1630-0411PUS1 | 1783 |

2292 7590 01/26/2009

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| EXAMINER | |
|---|---|
| ZHAO, DAQUAN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2621 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/26/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/714,434 | YOON ET AL. | |
| | Examiner | Art Unit | |
| | DAQUAN ZHAO | 2621 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *07 October 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,5,6,8,9,11,15-18,21-28 and 30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,5,6,8,9,11,15-18,21-28 and 30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1/31/2005; 6/13/2008; 7/31/2008; 10/7/2008/ 11/24/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1, 5-6, 8-9, 11, 15-18, 21-28, 30 have been considered but are moot in view of the new ground(s) of rejection.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 6, 8, 9,11, 15, 18, 27 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4, 8, 11, 17 of copending Application No. 10/713,580, hereinafter #580. Although the conflicting claims are not identical, they are not patentably distinct from each other because

For claim 1 of the instant application, the instant application claim is broader in every aspect than claim 1 of #580 and is thereof an obvious variant thereof.

For claims 11 and 15 of the instant application, the instant application claim is broader in every aspect than claim 4 of #580 and is thereof an obvious variant thereof.

For claims 6 and 8 of the instant application, the instant application claim is broader in every aspect than claim 8 of #580 and is thereof an obvious variant thereof.

For claim 18 of the instant application, the instant application claim is broader in every aspect than claim 17 of #580 and is thereof an obvious variant thereof.

For claim 27 of the instant application, the instant application claim is broader in every aspect than claim 1, 4, 8 and 17 of #580 and is thereof an obvious variant thereof.

For claim 9 of the instant application, the instant application claim is broader in every aspect than claim 11 of #580 and is thereof an obvious variant thereof.

4. Claims 5, 16, 17, 21, 22, and 30 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4, 8, 11, 17 of copending Application No. 10/713,580, hereinafter #580 as applied to claims 1, 6, 8, 9,11, 15, 18, 27 and further in view of Official Notice.

For claims 5, 16, 22 and 30, #580 fails to specify an acknowledgement of transmission. The examiner takes official notice for the acknowledgement of transmission since it is well known in the art. It would have been obvious ton one ordinary skill in the art at the time the invention was made to incorporate the acknowledgement for data transmission to improve the robustness of the system.

For claims 17 and 21, discarding contents information received before the acknowledgement does not make any patentable difference.

5. Claims 23-26 and 28 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4, 8, 11, 17 of copending Application No. 10/713,580, hereinafter #580 as applied to claims 1, 6, 8, 9,11, 15, 18, 27 and further in view of Official Notice.

For claims 23-26 and 28, #580 fails to specify content information sent from said contents provider server is audio data, and data read from said interactive optical disc includes video data. The examiner takes official notice for content information sent from said contents provider server is audio data, and data read from said interactive optical disc includes video data since it is well known in the art. It would have been obvious to one ordinary skill in the art at the time the invention was made to synchronously playback the video from the optical disc and the audio from the server to increase the option of language or audio selection for user's convenience.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 6, 8, 9 11, 18 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chung et al (US 2003/0,049,017 A1), hereinafter referenced as Chung, and further in view of Hidenori Minoda (JP 07-037341, both the original and translation of this document are attached), hereinafter referenced as Minoda.

For claim 1, Chung teach a)receiving contents information from a contents provider server via the internet, storing the received contents information in a buffer memory, and synchronizing and reproducing data read from an interactive optical disc and the stored content information (e.g. figure 3, and paragraph 66);

However, Chung fail to teach if receipt of the content information from the content provider server is suspended or delayed, sending a last download position of the contents information in the buffer memory to the contents provider server, and sending a command for requesting re-sending of contents information subsequent to the last download position; and c) in response to the command for requesting re-sending, receiving the contents information subsequent to the last download position, and synchronizing and reproducing the contents information subsequent to the last download position with the data read from the interactive optical disc. Minoda teach if receipt of the content information from the content provider server is suspended or delayed, sending a last download position of the contents information in the buffer memory to the contents provider server, and sending a command for requesting re-sending of contents information subsequent to the last download position; and c) in response to the command for requesting re-sending, receiving the contents information

subsequent to the last download position, and synchronizing and reproducing the contents information subsequent to the last download position with the data read from the interactive optical disc (e.g. page 2 and paragraph 8 of the English Translation). It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the teaching of Minoda to suspended the transmission of the HTML data of Chung when error occurred because Minoda suggested re-sending data from the where the erroe occurred would eliminate the cause of any interruptions or duplication of data (see Minoda, paragraph 7).

Claim 6 is rejected for the same reasons as discussed in claim 1 above, wherein Chung or Minoda teach “b) …if a size of the contents information downloaded into the buffer memory and not reproduced yet is below a predetermined reference value…”(e.g. paragraph 31 of Chung or paragraph 9 of Minoda).

Claim 11 is rejected for the same reasons as discussed in claim 1 above, wherein Minoda teach “counting synchronizations between the data read from the interactive optical disc and the stored contents information" (e.g. page 2 of Minoda, "cd detects synchronizing signal of each sub-code frame (access unit), and, for example, resumes reproduction at sub-code frame **two units prior to the error generating location**..."

Claim 18 is rejected for the same reasons as discussed in claim 11 above, wherein, Minoda teach “calculating an offset between data read from the interactive optical disc and contents information received from the content provider…" (e.g. page 2 of Minoda, "cd detects synchronizing signal of each sub-code frame (access unit), and,

for example, resumes reproduction at sub-code frame **two units prior to the error generating location**..."

Claim 27 is rejected for the same reasons as claims 1, 6, 11 and 18 combined.

For claim 8, Chung or Minoda teach delaying the re-synchronizing and reproducing until the size of the contents information in the buffer memory and not reproduced yet becomes greater than or equal to the predetermined reference value (e.g. paragraph 31 of Chung, or paragraph 9 of Minoda).

For claim 9, Minoda teach resuming the paused data reproducing operation of interactive optical disc if there is no contents information received after predetermined time period has elapsed (e.g. paragraph 41, a halt command).

8. Claims 5, 16,17, 21 22, and 30 rejected under 35 U.S.C. 103(a) as being unpatentable over Chung and Minoda as applied to claims1, 6, 8, 9 11, 18 and 27 above, and further in view of Official Notice.

For claims 5, 16, 22 and 30, Chung and Minoda fail to specify an acknowledgement of transmission. The examiner takes official notice for the acknowledgement of transmission since it is well known in the art. It would have been obvious ton one ordinary skill in the art at the time the invention was made to incorporate the acknowledgement for data transmission to improve the robustness of the system.

For claims 17 and 21, discarding contents information received before the acknowledgement does not make any patentable difference.

9. Claims 23-26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chung and Minoda as applied to claims1, 6, 8, 9 11, 18 and 27 above, and further in view of Official Notice.

For claims 23-26 and 28, Chung and Minoda fail to specify content information sent from said contents provider server is audio data, and data read from said interactive optical disc includes video data. The examiner takes official notice for content information sent from said contents provider server is audio data, and data read from said interactive optical disc includes video data since it is well known in the art. It would have been obvious to one ordinary skill in the art at the time the invention was made to synchronously playback the video from the optical disc and the audio from the server to increase the option of language or audio selection for user's convenience.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miura et al (US 2002/0,183,873 A1); Coverdale et al (US 6,373,842 B1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daquan Zhao whose telephone number is (571) 270-1119. The examiner can normally be reached on M-Fri. 7:30 -5, alt Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Thai Q, can be reached on (571)272-7382. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daquan Zhao

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621